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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

Identifying data deleted to
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regarding the identity of the individual

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U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

MA 10 2008
Date:

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

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Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application. The director further determined that the applicant was ineligible to adjust to permanent residence pursuant to 8 C.F.R. § 245a.18, because he was found inadmissible under one or more provisions of section 212(a) of the Immigration and Nationality Act (INA).

On appeal, the applicant submitted a blank appellate statement and requested a forty-five day extension to submit a brief and/or evidence to support his appeal. The record shows that the applicant subsequently supplemented his appeal by providing documentation relating to his criminal record.

It is noted that the director determined that the applicant was ineligible to adjust to permanent residence under the provisions of the LIFE Act because he was found inadmissible under one or more provisions of section 212(a) of the INA. However, such a finding is without merit as the director failed to cite a specific ground of inadmissibility as it applies to the applicant. Instead, the director merely cited a list of three grounds of inadmissibility contained in 8 C.F.R. § 245a.18, as well as sections 212(a) and 245A of the INA, and concluded that the applicant was inadmissible "...under at least one of the provisions of section 212(a)..." of the INA. In order to be legally sufficient and correct, the director must cite the specific provision of law or regulation that applies to an applicant who is deemed either inadmissible or ineligible. For this reason, the director's finding that the applicant is ineligible to adjust to permanent residence under the LIFE Act because he is inadmissible cannot be considered valid. As such, documentation submitted by the applicant on appeal that relates to his criminal record need not be discussed further.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (*CSS*), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (*LULAC*), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) (*Zambrano*). See 8 C.F.R. § 245a.10.

The applicant failed to submit any documentation addressing this requirement when the application was filed. In response to a notice of intent to deny, the applicant included a photocopy of a payroll record from the Dale Hampton Farming Co., Inc., reflecting the details of his employment with this enterprise in the period from April 24, 2000 to October 24, 2000. However, the photocopied payroll record does not establish that the applicant filed a written claim for class membership in any of the requisite legalization class action lawsuits.

The applicant also provided a photocopy of a letter dated September 21, 2000, supposedly sent to Attorney General Reno, requesting that the applicant be registered in the "*CSS vs MESSE*" case. A written claim for class membership means a filing, in writing, in one of the forms listed in 8 C.F.R. § 245a.14 that provides the Attorney General with notice that the applicant meets the class definition in the cases of *CSS*, *LULAC*, or *Zambrano*. See 8 C.F.R. § 245a.10. The letter does not constitute a "form" and does not equate to the actual forms listed in 8 C.F.R. § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for membership in a legalization class action lawsuit because it does not provide any relevant information upon which a determination could be made.

Moreover, the applicant does not explain why, if this letter were truly in his possession the entire time, he did not submit it with his LIFE application, as applicants were advised to provide evidence with their applications. In

addition, it must be noted that the applicant is one of many aliens who did not furnish such identically-worded letters in the same typeface (virtually all dated from September 12th to September 25th, 2000) with their LIFE applications and yet provided them only upon receiving letters of intent to deny. It is further noted that all of these aliens had their LIFE applications prepared by M.E. Real of Professional Tax Service, Santa Maria, California. In addition, none of these aliens has provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. These factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant timely filed an application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA) on April 26, 1988, and this application was subsequently denied on March 26, 1992. The applicant's appeal to the denial of the SAW application was subsequently dismissed by the AAO on December 15, 1995. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

Given his failure to establish that he filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.